

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JEFFERY L. CLARK,)	CASE NO. 4:07 CV 985
)	
Plaintiff,)	JUDGE PETER C. ECONOMUS
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
MRS. NEWMAN, et al.,)	<u>AND ORDER</u>
)	
Defendants.)	

On April 5, 2007, plaintiff pro se Jeffery L. Clark, an inmate at the Ohio State Penitentiary, filed the above-captioned action under 42 U.S.C. § 1983 against Mrs. Newman (Medical), Mr. Linger (Maintenance) and the Lorain Correctional Institution ("LoRCI"). The complaint alleges that plaintiff's bunk bed at LoRCI broke in the same place in which it had been repaired earlier in the day, resulting in injuries to his back, head, wrist shoulder, hip and neck. For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915A.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon

which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

It is well established that negligence cannot form the basis for a section 1983 action. Daniels v. Williams, 474 U.S. 327 (1986). Even construing the complaint liberally, the facts set forth appear, at most, to assert negligence on the part of defendants. Cf. Dillon v. Wilson, No. 85-5566, 1987 U.S. App. LEXIS 8173, (6th Cir. June 29, 1987) (affirming sua sponte dismissal on ground that complaint at most claimed negligence.)

Accordingly, this action is dismissed under section 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

S/Peter C. Economus - 6/5/07
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE